

**Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015**

SENATE BILL NO. 2115
(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to amend and reenact section 57-01-11, subsection 5 of section 57-39.2-12.1, and subsection 5 of section 57-40.2-07.1 of the North Dakota Century Code, relating to the assessment of taxes and compensation allowance to retailers for administrative expenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-01-11 of the North Dakota Century Code is amended and reenacted as follows:

57-01-11. Assessment of or determination of additional tax liability by tax commissioner - Hearing - Appeal.

1. In any case in which the provisions of any tax law are administered by the tax commissioner and the tax is collected by the tax commissioner or the amount thereof is certified by the tax commissioner to any other official for collection and the law providing for such tax authorizes the tax commissioner to assess or determine a tax liability that is in addition to that reported by the taxpayer, the taxpayer has a right to a hearing before the tax commissioner on such assessment or determination and has a right to appeal to the courts from the decision of the tax commissioner on such hearing and all of the provisions of chapter 28-32 relating to proceedings before an administrative agency, including the right to appeal to the courts from the decision of the tax commissioner in such a proceeding, are applicable to and govern the notice of hearing, the hearing, and the right of appeal from the tax commissioner's decision thereon. Notwithstanding the provisions of any other law heretofore or hereafter enacted, it is the intent and purpose of this section to provide that in those circumstances hereinbefore described every taxpayer shall have both the right to a hearing before the tax commissioner and the right to appeal to the courts from the tax commissioner's decision on such hearing in accordance with the provisions of chapter 28-32 unless the provisions of any such law expressly provide that the decision of the tax commissioner is final or expressly provide that the provisions of chapter 28-32 are not applicable.
2. If a tax administered by the tax commissioner is assessed under any provision of law that expressly provides the assessed tax is final and nonreviewable and the assessed tax has not been paid, the tax commissioner may accept for legal settlement purposes, a reduced amount of tax if information is received from the taxpayer that the tax as assessed exceeds the actual amount due. If the tax commissioner receives information that the tax was under-assessed, the additional amount of tax that is determined to be due may be assessed by the tax commissioner, notwithstanding the fact that the assessment made by the tax commissioner is final and nonreviewable.

SECTION 2. AMENDMENT. Subsection 5 of section 57-39.2-12.1 of the North Dakota Century Code is amended and reenacted as follows:

5. Compensation may not be deducted and retained under this section unless the tax due is paid within the time limitations under section 57-39.2-12 or 57-40.2-07 or chapter 57-39.4. If a retailer fails to timely file a return or pay the tax due, the tax commissioner may, for good cause shown, allow the retailer to deduct and retain the compensation under this section.

SECTION 3. AMENDMENT. Subsection 5 of section 57-40.2-07.1 of the North Dakota Century Code is amended and reenacted as follows:

5. Compensation may not be deducted and retained under this section unless the tax due is paid within the time limitations under section 57-39.2-12 or 57-40.2-07 or chapter 57-39.4. If a retailer fails to timely file a return or pay the tax due, the tax commissioner may, for good cause shown, allow the retailer to deduct and retain the compensation under this section.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2115.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 89 Nays 1 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2015.

Approved at _____ M. on _____, 2015.

Governor

Filed in this office this _____ day of _____, 2015,
at _____ o'clock _____ M.

Secretary of State